

PALM BEACH COUNTY SHERIFF'S OFFICE

RIC L. BRADSHAW, SHERIFF



U Nonimmigrant Status Certification (U-visa, Form I-918, Supplement B) Protocol

Purpose

The U Nonimmigrant Status Certification, U-visa, process allows an individual to apply for temporary legal status if they are a victim of certain qualifying criminal activity and is, has been, or is likely to be helpful in the investigation or prosecution of that activity. This type of visa was created to strengthen law enforcement agencies' ability to detect, investigate, and prosecute crime while offering immigrant crime victims legal immigration status, work authorization, and protection from deportation.

Scope

The law enforcement certification of the U-visa is only one part of the application process for the individual and does **not** grant immigration status. Typically, a U-visa request is received by a Deputy or Investigator from a crime victim or their attorney. Please note: The decision to provide certification is entirely discretionary; the agency (PBSO) is under no legal obligation to complete a Form I-918, Supplement B. If, however, the Deputy or Investigator believes that the situation qualifies for certification of the U-visa (meaning that an eligible crime has occurred, that the individual meets the definition of "victim", and that the "victim" was, or is likely to be, helpful in the investigation/prosecution) and is warranted under the circumstances, then they shall complete the U-visa I-918, Supplement B form, thoroughly with detailed information. The Deputy or Investigator shall obtain all pertinent reports, criminal histories, PALMS, and other applicable information so an informed decision can be made to certify or not. . If the I-918, Supplement B, form is going to be certified and signed by PBSO, it must be done so by the Sheriff or his designee, the rank of **Captain or above**. All cases shall be thoroughly reviewed by the Deputy or Investigator and the completed Form I-918 Supplement B, plus all backup documentation and a brief memo explaining the particular benefit to law enforcement shall be submitted through the chain of command.

- The District commander, upon executing or rejecting the (U-Visa application form), will write the case number of the PBSO Case related to the application on the top, right hand corner of the application document.
- It shall then be sent to Central Records for final retention. Central Records upon receiving the application form will scan it as part of the case in the On-Base System, "case attachments" index. This document will become an attachment, along with the case, and will maintain a records retention that equals the case type as outlined in the State's General Schedules GS2 and GS1-SL.

This document will also be subject to any exemptions/confidentiality outlined within Florida State Statute.

- Additionally, if the form is certified, and the applicant is a victim or witness in a pending criminal case, the prosecuting Assistant State Attorney should be notified of the U-visa application. (*The State Attorneys Office receiver of U-visa's, ASA Lindsay Warner, email LWarner@sa15.org*)
- If, at any time following certification by PBSO, the individual unreasonably refuses to assist in the investigation or prosecution of criminal activity, U.S. Citizenship and Immigration Services must be notified. The form is self-explanatory; however a U-visa Quick Reference for Law Enforcement is attached.

U-VISA QUICK REFERENCE FOR LAW ENFORCEMENT OFFICIALS

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| Purpose of the U-visa | <ul style="list-style-type: none"> • The U-visa facilitates the reporting of crimes to law enforcement officials by immigrant victims of crime, including domestic violence, sexual assault, human trafficking and other crimes listed in the U-visa statute. |
| Benefits of the U-visa | <ul style="list-style-type: none"> • This type of visa strengthens law enforcement agencies' ability to detect, investigate, and prosecute crime while offering immigrant crime victims legal immigration status, work authorization, and protection from deportation. |
| Who is eligible for a U-visa? | <ul style="list-style-type: none"> • To be eligible for a U-visa <ul style="list-style-type: none"> ○ an individual must have suffered substantial physical or mental abuse as a result of having been a victim of one or more qualifying criminal activities; ○ the individual must possess information concerning the criminal activity; ○ the individual must be helpful, have been helpful, or be likely to be helpful to a federal, state, or local official in the detection, investigation, or prosecution of the criminal activity; and ○ the criminal activity must have occurred in the United States or its territories and possessions or violated U.S. laws. |
| U-visa Qualifying Criminal Activity | <ul style="list-style-type: none"> • U-visa qualifying criminal activity includes, but is not limited to: rape, torture, trafficking, incest, domestic violence, sexual assault, abusive sexual contact, prostitution, sexual exploitation, female genital mutilation, being held hostage, peonage, involuntary servitude, slave trade, kidnapping, abduction, unlawful criminal restraint, false imprisonment, blackmail, extortion, manslaughter, murder, felonious assault, witness tampering, obstruction of justice, perjury, solicitation to commit any of the above-mentioned crimes, or <i>any similar activity</i> in violation of federal, state, or local criminal law. • The term <i>any similar activity</i> accounts for the wide variety of state and federal criminal laws that may have names different from the criminal activity listed in the statute but are comparable in nature and elements to the enumerated criminal activity. |
| Status of Crime Perpetrator | <ul style="list-style-type: none"> • A victim may qualify for a U-visa certification regardless of whether there is any familial relationship between the victim and the perpetrator. The perpetrator may have any immigration or citizenship status such as U.S. citizen, legal permanent resident, diplomat, work-visa holder, or undocumented immigrant. |
| Certification Requirements | <ul style="list-style-type: none"> • A certifying official must complete U.S. Citizenship and Immigration Services (USCIS) Form I-918, Supplement B. A certifying official is the head of a law enforcement agency or a person(s) with supervisory responsibility designated by the head of the agency to provide certifications. • The certification is necessary to establish eligibility for the U-visa, but by itself does not grant immigration status to the victim. To obtain a U-visa, a victim must meet certain eligibility requirements, in addition to obtaining a U-visa certification. USCIS has sole authority to grant or deny a U-visa. • The certification should provide specific details about the nature of the crime being detected, investigated, or prosecuted, and describe the petitioner's |

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| | <p>helpfulness in the case.</p> <ul style="list-style-type: none"> • U-visa certification does not require that law enforcement investigate the criminal activity beyond reporting of the crime. The certification attests only to the U-visa petitioner's willingness to be helpful or past or present helpfulness in detection, investigation, prosecution, or investigation efforts. |
| Assessing the Helpfulness of the U-visa Applicant | <ul style="list-style-type: none"> • If a U-visa petitioner filed a police report and is willing to assist—or has assisted or cooperated—with detection, investigation, or prosecution of criminal activity, a certification may be provided even when the initial investigation efforts do not lead to further investigation and/or do not result in a prosecution or a conviction. • Law enforcement officials may issue a certification at any time after detecting a qualifying criminal activity if the officer believes criminal activity occurred and identifies a person as a victim of criminal activity. The investigation need not be complete prior to issuing a certification. • Congress intended to allow victims to obtain U-visa certifications at very early stages of crime detection—during investigations into criminal activity. • To be eligible for lawful permanent residence, the victim has an ongoing responsibility to provide assistance when reasonably requested, as the statute specifies. |

For more information, download the entire U-visa Tool Kit for Law Enforcement at: <http://www.vera.org/content/national-immigrant-victims-access-justice-partnership/toolkit>